

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

CHAD BORSTEIN,

Charging Party,

-v-

SEARS HOLDING COMPANY,

Respondent.

Case # 0071012111

ORDER

Chad Borstein (Borstein) filed a complaint with the Department of Labor and Industry (Department) alleging that Sears Holding Company (Sears) discriminated against him in employment on the basis of his religion, Jewish. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Borstein's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Borstein filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on May 15, 2007.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Mont. Code Ann. § 49-2-509(4)(2005); Admin. R. Mont. 24.9.1714(3)*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint is not an abuse of discretion.

A party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Admin. R. Mont. 24.9.1714(7); See also Mont. Code Ann. § 2-4-702; § 49-2-509(4)*.

Alternatively, if a charging party chooses to commence a civil action, charging party has 90 days after the receipt of this order to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Mont. Code Ann. § 49-2-*

509(5) (2005); *Admin. R. Mont.* 24.9.1714(5). If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Chad Borstein's objection is overruled. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint.

DATED this ____ day of May, 2007.

Chair Ryan C. Rusche
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of May, 2007.

CHAD BORSTEIN
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Montana Human Rights Bureau